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Form No. 471

July 14, 1965

SPEAKER BAN LAW STUDY COMMISSION

Meeting No. I

The first meeting of the Speaker Ban Law Study Commission was held on Wednesday, July 14, 1965, at 10:00 a.m., in Room 1027 of the State Legislative Building. All nine members of the Commission were present.

Chairman David M. Britt called the meeting to order and introduced members of the Commission as follows:

Representative A. A. Zollicoffer, Jr., Henderson, N. C.
Senator Russell Kirby, Wilson, N. C.
Senator Gordon Hanes, Winston-Salem, N. C.
Mr. Charles Myers, Burlington Industries, Greensboro, N. C.
Colonel W. T. Joyner, Raleigh, N. C.
Mrs. Elizabeth Swindell, Wilson, N. C.
Rev. Ben C. Fisher, Raleigh, N. C.
Representative Lacy H. Thornburg, Sylva, N. C.

Chairman Britt introduced Mrs. P. E. Howell who will serve as clerk for the Commission. He stated that the purpose of the Commission is to study G. S. 116-199 and G. S. 116-200, relating to visiting speakers at State supported educational institutions of higher learning. This is referred to as the Speaker Ban Law which was enacted during the 1963 Session of the General Assembly. He stated that it was his hope that the group would approach this matter with an open mind. He admitted that he did not know the answer but hoped that by study and reasoning together that it would be possible to come up with some sort of reasonable answer. Chairman Britt read Resolution No. 85 (H.R. No. 1068).

One of the first steps called for in the Resolution was to elect a Secretary. Representative Zollicoffer nominated Mrs. Elizabeth Swindell. Senator Hanes seconded the nomination. Rev. Fisher moved that the nominations be closed and that Mrs. Swindell be elected by unanimous vote. This motion was passed and Mrs. Swindell was elected Secretary for the Commission. It will be Mrs. Swindell's duty to supervise the work of the Commission Clerk, Mrs. Howell.

Chairman Britt asked for the pleasure of the group in having the meetings opened to the public. Mrs. Swindell thought we should have the meetings opened to the public. Senator Hanes thought at some future time we might want to meet in private. Colonel Joyner stated he thought at some future time we should have private meetings. This would be following the gathering of information needed from the different groups. It was agreed that for the time being and for the foreseeable future, all meetings and hearings would be open to the public.

Chairman Britt discussed the work to be done. He thought it might be a good idea to have a sub-committee, made up of the lawyers on the Commission, to study the legal aspects of the matter. Senator Hanes stated that he thought this would be a splendid idea. Thornburg stated he felt this was absolutely necessary. The sub-committee will be composed of the following members: Representative David M. Britt, Representative A. A. Zollicoffer, Jr., Senator Russell Kirby, Colonel W. T. Joyner and Representative Lacy Thornburg.

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Chairman Britt felt the next step should be to set-up some public hearings. Persons who are interested in being heard would be invited to these hearings. As soon thereafter as possible, he suggested that we move on to the next step to investigate the accreditation aspect. We would invite members of the Southern Association of Colleges and Schools to come before the Commission and give any information we might need. We would also invite other agencies and related groups. He asked if this was the feeling of the group.

Colonel Joyner stated that he had practically no information concerning the accreditation issue and he would like to know something about the Southern Association's set-up, how it is organized, what its powers are and what its objections are. It was his feeling that we should accumulate this information before proceeding into the public hearings. He also suggested the need for an early report from the Commission's sub-committee. He stated that if a decision was reached that the law is unconstitutional, that would be a quick answer. He felt that we should have the Southern Association of Colleges and Schools appear before the Commission to answer pertinent questions as one of the first orders of business. Senator Hanes raised the question that it might be that we would have to appear before the Association rather than have them appear before us. Chairman Britt stated that he had been informed that they would come to Raleigh to appear before the Commission. Rev. Fisher stated that the office of the Association is located in Atlanta and that he had been informed that the Director would be glad to come. It was mentioned that the Commission would be responsible for the expenses of having members of the Association to appear before the Commission. Hanes thought it would be wise to send them a copy of the law that it might be studied before coming to Raleigh. Britt said he felt that they already had a copy of this law but we would be glad to send a copy if necessary. Representative Thornburg thought it would be wise to have an understanding that we would be allowed to question them when they appear before the Commission. Colonel Joyner stated that he certainly agreed to this, and that it should be understood that anyone appearing before this Commission will be subject to questioning. Questioning of witnesses will be limited to commission members, except by special written agreement.

Senator Kirby suggested that participants at public hearings should be required to give notice that they want to testify and to submit a short synopsis of the type of testimony they intend to present. Senator Hanes wanted to know if we intend to invite individuals - anyone interested in appearing - or just representatives of groups. Britt replied that specific invitations are indicated in some cases, including representatives of the academic world, certain organizations, for example the American Legion. At this point, Chairman Britt recognized the Commander of the American Legion, State Commander Alvis Carver of Dunn, as being in the audience. Mrs. Swindell wanted to know if we should not require advance notice from anyone wishing to be heard. Chairman Britt thought we should require at least one week's advance notice.

Chairman Britt asked if it would be convenient to all members of the Commission to set the next meeting for August 11th, 12th or 13th. It was agreed that the meetings should be full day meetings and run two or three days if necessary to handle as much business as possible. This would eliminate unnecessary travel for members who would have to travel great distances. It was decided that Chairman Britt should contact the Southern Association of Colleges and Schools and see if they can attend on either of these dates. If he is unable to arrange this time with them, he was given permission to arrange a date convenient with them and notify the members of this date. Tentatively, it was decided that the first

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hearings would be held during the period August 11th - 13th. If this can be arranged, the Southern Association would appear before the Commission in the morning, the U. S. Department of Health, Education and Welfare, and the various foundation groups, would be heard in the afternoon. The following morning the American Association of University Professors' representatives would be heard.

Chairman Britt asked if it was the feeling of the Commission that we should invite President Friday to appear on the second day to give a general statement. Representative Thornburg thought it best to have all of the presidents of our state colleges to appear at one time rather than have one to appear. Chairman Britt then asked if it was the feeling of the Commission that we should invite professors and college presidents to appear the same day. Representative Thornburg thought we would not have time at this meeting. Mrs. Swindell stated that she was concerned with putting the people off too long if we wait until the end of August. Britt stated that it takes a long time to get these meetings together, but agreed that this should be done as quickly as possible.

Colonel Joyner stated that he certainly thought it wise to investigate the accreditation aspect first but he thought it wise not to let the idea get out that this is the most important thing.

Chairman Britt thanked Senator Hanes for getting together letters from administrative leaders of the Universities of Georgia, South Carolina, Virginia, Tennessee and Maryland, concerning their feelings in regard to a Speaker Ban Law. Copies of these letters were distributed to the commission members as a matter of information. He stated that he would welcome any material from any organization or individual. He has received quite a bit and would read and study all of this in order to become better informed on the issue. He felt that each member of the Commission felt the same way.

Chairman Britt asked if at all possible that each member keep a record of mileage and other expenditures in connection with meetings and turn these in after the Commission has completed its study. If it becomes a hardship on anyone, this expense can be handled at any time by filling out the appropriate form. These forms are available from the Chairman's office.

Chairman Britt asked that the Sub-committee meet in his office immediately following the adjournment of the Commission meeting.

There being no further business the meeting adjourned.

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August 11, 1965
10:00 a.m.

SPEAKER BAN LAW STUDY COMMISSION

Public Hearing No. 1

The second meeting of the Speaker Ban Law Study Commission was held on Wednesday, August 11, 1965 at 10:00 a.m., in the auditorium of the State Legislature Building. This was a public hearing. All nine members of the Commission were present. This hearing was televised.

Chairman David M. Britt called the meeting to order. He gave a brief background concerning the enacting of the Speaker Ban Law during the 1963 General Assembly. There was considerable controversy over this bill and during the 1965 Session of the General Assembly, at the recommendation of Governor Moore, a Commission to Study the Speaker Ban Law was authorized. The membership includes two members appointed by Speaker of the House, Pat Taylor and two from the Senate appointed by President of the Senate, Robert Scott, also five appointed by the Governor. Chairman Britt introduced, for the benefit of the audience, the members of the Study Commission.

The general public was welcomed and invited to acquaint the members of the Commission with any material they might have which would be beneficial in helping the Commission to arrive at a decision. He also informed the audience that if they had a question they would like to ask, if they would submit it to one of the members of the Commission, the member would ask the question. He announced that the Southern Association of Colleges and Schools, Inc. would be heard during the morning session. In the afternoon, Dr. Howard Boozer, Associate Director of the State Board of Higher Education, would be heard concerning what effect the loss of accreditation would have as to grants from federal agencies and other foundations. Thursday morning the American Association of University Professors' representatives are scheduled to be heard. On Thursday afternoon, the American Legion will be heard.

Chairman Britt introduced Dean Emmett B. Fields, Chairman of Commission on Colleges, Southern Association of Colleges and Schools, Inc., who spoke of the interest of the Southern Association of Colleges and Schools, Inc., in matters related to the Speaker Ban Law. He stated that the Southern Association is a voluntary organization. The standards take account of the fact that institutions are of different types and sizes with differing charter purposes. While the standards are approved and promulgated by the College Delegate Assembly, the primary responsibility of determining compliance with the standards is borne by a smaller body, the Commission on Colleges. This Commission is composed of 54 members elected by the Association with representation from the eleven states served by the Association. The Commission is required to prepare a list of member institutions which conform to the standards and a list of member institutions which do not conform to the standards and submit these lists for approval to the College Delegate Assembly at the Annual Business meeting of the Commission on Colleges. The annual meeting is held the week after Thanksgiving.

The Southern Association took formal notice of the conditions imposed by the Speaker Ban Law on state institutions of higher learning in North Carolina on March 8 - 11, 1964. A visiting committee was appointed to make a study of conditions at the University of North Carolina. The committee took cognizance

of the Speaker Ban Law and controversy it had caused concerning the Standard Two of the College Delegate Assembly, "Organization and Administration". The relevant section of Standard Two included the following: "The governing board should not be subject to undue pressures from state officials or other outside political or religious groups; furthermore, the governing board should protect the administration from similar outside pressures". Dean Fields explained the events following the visit of the visiting committee (a full statement of Dean Fields' message has been given to each member of the Commission and copy filed with these minutes). Dean Fields stated that the May 19th action of the Executive Council with respect to continued accreditation at North Carolina State-supported schools was not a final action. The next step is up to the Commission which will hear the case at its annual meeting in November.

Chairman Britt thanked Dean Fields for his statements and recognized Mr. Gordon W. Sweet, Executive Secretary of the Commission on Colleges. He then called on members for questions.

Colonel Joyner asked Dean Fields whether the great body of North Carolina people and the sentiments they hold constitute pressure from the outside. Fields replied that the governing board ought to be as sensitive to the citizens as it can but it must be finally responsible as to what policies should be followed at the institution. He said the people can express their will in electing the Governor and members of the Legislature, who in turn appoint the trustees of the institution.

Colonel Joyner then asked if it is a fair conclusion to say the standards of accreditation are directed toward the quality of instruction. Dean Fields replied that they were.

Colonel Joyner then inquired whether a member institution would incur disfavor from the Southern Association if it admitted a transfer student from an institution that was not accredited. Fields said there would be no automatic rejection but that an institution could make an independent evaluation of each student from a non-accredited school. He further stated that in times of enrollment pressure, those students from accredited institutions who could be routinely admitted might crowd out those from non-accredited schools, but that independent evaluation and admittance of such students would bring no disfavor from the association.

Colonel Joyner mentioned the existence of five other regional accrediting agencies in the country and asked if there was an agreement among all these agencies to accept only students from accredited institutions. Dean Fields replied that a compact of interchange whereby all agencies respect each other's accreditations does exist.

Colonel Joyner produced records of the Association's annual meeting in December, 1963 and December 1964 and noted that there was no mention of the Speaker Ban Law or the University of North Carolina and noted that on each occasion all State-supported schools were still listed as having accredited standing. He asked if it were correct that although the law was passed in June of 1963, by December 1964 it had not seriously affected the quality of instruction at the schools. Dean Fields answered that the committee investigating the matter had not then reached a conclusion.

Colonel Joyner asked if the University is disaccredited solely because of the Speaker Ban Law and the credits of a University graduate were accepted by Clemson University, would Clemson fall into disfavor with the Southern Association. Fields answered, "No", he thought it would not.

Colonel Joyner asked if it was then Dean Field's contention that the General Assembly has wrongfully invaded the province of the trustees of the schools? Dean Fields stated that this was correct. The Association's objection is that the school administrators and trustees have lost their authority to regulate visiting speakers to an "outside political group" - the General Assembly.

Colonel Joyner stated he had no further questions at this time. Chairman Britt adjourned the meeting for a recess of ten minutes.

Immediately upon convening, Chairman Britt mentioned that Representative Philip Godwin, co-sponsor of the bill, would be heard in the afternoon. He then introduced Senator Tom White of Lenoir County for a brief statement. Senator White stated that he wanted to make a formal request to appear before the commission at a later date to speak at length on why the law should be retained. He declared himself "a proponent of this wholesome law". He stated that the law should stay on the books and that he was not fearful of what would be the result of disaccreditation. He did not expect an exodus of members of the faculty as the result of the law. Chairman Britt said it was customary in legislative hearings, which the commission is following, to hear the introducer of a bill and also a proponent of the bill from the other house.

Chairman Britt then called on Representative Thornburg for questions. Representative Thornburg asked Dean Fields to comment on some discussion of all the State institutions in North Carolina pulling out and forming an accrediting association with its own rules. Dean Fields said he had better not make a statement concerning this. Representative Thornburg asked questions concerning the visit of the committee to the campus of the University of North Carolina. Dean Fields stated that he was not a member of this committee but a full report of the visit was in the statement he made to the Commission and of which the members received a copy. Thornburg asked if the institutions would be heard before accreditation was withdrawn. Dean Fields answered "yes". Representative Thornburg then asked "On both sides of the issue?" Fields answered "yes". Thornburg then wanted to know if there was a real threat that the institutions would be disaccreditated. Fields answered that he thought the statement speaks for itself. He stated that since he was Chairman of the College Delegate Assembly and would be presiding at the meeting in November, at which time action will be taken, he did not intend to violate the role of the chair by stating what they might or might not do. Thornburg then questioned the fact that the Association allowed the bill to be passed. Fields answered that this was not the final action that final action would be taken by the committee. He stated that hearings would be permitted and required after the Commission hears the matter in November.

Mrs. Swindell asked if Dean Fields was saying that at the meeting in November the matter would be discussed but no action taken. Dean Fields answered that he expected the matter would be decided on at that time. Mrs. Swindell then asked "even though we are meeting and trying to make a decision?' 'Can't the accrediting board give consideration to the problems of the Study Commission at this time?" Dean Fields stated that he felt they could. Mrs. Swindell asked whether accreditation would be threatened if the law were amended to permit

"non-political" speeches by Communists. Dean Fields answered that the issue as the Association sees it is the infringement of the board to set policy but he said he could not speculate on a set of facts that did not exist.

Rev. Fisher questioned the fact that the Association waited so long to act. Dean Fields stated that as long as it was strongly indicated that the issue would be resolved, they had no reason to act. It was their thought that it might be amended during the 1965 Session of the General Assembly although this was never clear. He stated that they acted as quickly as their investigation was complete, not before.

Mr. Myers stated that he understood there had been no specific threat of loss of accreditation under similar circumstances anywhere except North Carolina. Dean Fields stated there had been in Georgia and also in Mississippi. He stated disaccrediation does not happen often. Myers asked if there had been an instance in either of the other six Associations. Fields stated he could not answer this question.

Representative Zollicoffer asked Fields if he knew of any major institutions in the country that are not members of an accrediting agency. Fields said he knew of none. Zollicoffer then asked what reaction the Southern Association would have if the Board of Trustees adopted a Speaker Ban policy instead of the General Assembly. Fields stated that the Association would be faced then with a different set of facts, that it would not be the same problem. Zollicoffer asked whether any aspect of the law itself were of particular concern to the Southern Association. Fields answered that there was none as significant as the fact that the governing board is deprived of its traditional powers of regulating visiting speakers.

Senator Kirby noted that Fields' home state of Tennessee still has an old law prohibiting teaching of the theory of evolution of man. He asked if there had been any threat of Tennessee accrediation because of this. Fields answered "no". Kirby asked if this did not infringe on academic freedom. Fields answered "you bet your life it does".

Senator Hanes asked if the University trustees or administration have written rules or regulations governing visiting speakers, given to them by the Southern Association. Fields answered as far as he knew they did not. After much questioning by Hanes he told Fields that it was very difficult for the Commission when Fields would not answer hypothetical questions. He stated that the Commission was faced with a difficult problem of taking action that will assure the proper continuance of the University and other colleges in the State. He said it was impossible to make any conclusions unless somebody tells the Commission what the Southern Association wants the Commission to do. Fields stated he could only state the association's position with regard to their standards. Hanes then wanted to know who could give an answer. Fields replied that this could only be done by the full board meeting of the Southern Association of Colleges and Schools in November.

Chairman Britt asked what distinction he made between the Speaker Ban Law and a 1941 North Carolina law prohibiting advocating violent overthrow of the

government. Fields stated there is a substantial difference between prohibiting speakers on the basis of what they say and what they are. Britt then asked if it were not hard to draw the line. Fields answered that the 1941 law merely raised serious questions as to the need of the second. Britt then asked if the action that has been taken by the Southern Association had been precipitated by people in North Carolina. Fields replied that it had and by the General Assembly. Britt asked if the head of institutions or any persons connected with them, encouraged the Association to take action. Fields stated that at no point did anyone urge the Association to act in the way it did. Britt asked if he thought it would be proper to prohibit speakers from Mafia, international crime syndicate. Fields answered that it seemed to him at first blush that would be perfectly appropriate action. Britt then asked if that were not a difficult distinction to follow, and if Fields considered it wrong to prohibit members of an international Communist conspiracy plotting to enslave free people from speaking at State Colleges. Fields replied that he would wonder whether the General Assembly is achieving its ends of fighting Communism without violating an old precious tradition of autonomous governing bodies.

Chairman Britt asked members if there were other questions. Mrs. Swindell asked Dean Fields if she was correct when she said all you have said today is that what has happened has not hurt the academic standing of our colleges. Dean Fields stated that thus far we have been benefited. There being no further questions, Chairman Britt thanked Dean Fields and Mr. Sweet for coming. The meeting was then adjourned until 2:00 p.m.

August 11, 1965
2:00 P.M.

SPEAKER BAN LAW STUDY COMMISSION

Public Hearing No. 2

The second Public Hearing in connection with the Speaker Ban Law Study Commission was held on Wednesday afternoon, August 11, 1965 at 2:00 p.m., in the auditorium of the State Legislature Building. All nine members were present.

Chairman David Britt called the meeting to order and introduced Representative Philip Godwin, one of the co-sponsors of the bill which was introduced during the 1963 Session of the General Assembly. Representative Godwin explained the purposes and background of the Speaker Ban Bill. He stated that it has no bearing on academic freedom but is aimed solely at denying a public forum to Communists or persons taking the Fifth Amendment in loyalty matters. He stated that at the time of its introduction he had no idea it would have caused so much controversy. Under the law, Communists or persons pleading the Fifth Amendment when questioned about subversive activities are prohibited from speaking on State-supported college and university campuses. He stated he did not see how anyone in North Carolina could object to this bill. Godwin stated the Bill's sponsors had no intent to wait for an appointed time to catch the House off guard. Godwin said he requested a suspension of the rules procedure because of the lateness of the session. The law was prompted because the measure's sponsors believed that a 1941 law did not prevent known communists from speaking at State-supported universities.

Chairman Britt called on Senator Hanes for a question. Senator Hanes asked Godwin how he would define the word "facility" of the university. Godwin stated that this would be a building, auditorium, stadium or amphitheater.

Mrs. Swindell asked Representative Godwin if this law prohibited freedom of speech. Godwin answered that it did not, only where the speech is to be made. Senator Kirby wanted to know if there was a known method of deciding a known communist. Godwin stated that the FBI has a list of known communist. He stated it was not the purpose of the Bill to point the finger at anyone and say they cannot speak. Kirby said he had noticed that there was no penalty for violation of this law. Godwin stated that in his opinion the penalty would be a breach of confidence by College or University trustees. Kirby asked if this was not the same as prohibiting the teaching of evolution. Godwin said he thought this was correct. Kirby asked if this would prevent a Russian surgeon from speaking to a medical school on how to operate, or some Russion scientist from speaking on a scientific subject. Godwin stated that you never know when they would leave off the scientific and go into political expressions.

Representative Zollicoffer asked if the Russian Ambassador would be prevented from speaking. Godwin answered "yes". Zollicoffer then asked if Godwin did not think it would be educational for students to hear former Russian Premier Nikita Khrushchev. Godwin stated that he did not think this would be of any educational value to students but he thought a course in Marxism should be taught in the schools under proper instruction. Representative Zollicoffer asked if the co-sponsors of the bill had any information concerning known Communists appearing on the campus. Godwin replied that it was a matter of record that Communists such as Gus Hall, Langston Hughes and Milton Rosen had spoken on the University of North Carolina at Chapel Hill campus, but that he had no documentary evidence

that Communists had every spoken on the eleven other State-supported college campuses. Representative Thornburg asked Godwin if racial disturbances in the late spring during the 1963 session of the General Assembly had anything to do with the law. Godwin stated that he had heard many things reported in the press about this that are completely untrue. This is one of them. Godwin stated that he had been unable to get an answer as to whether this bill would effect accreditation and he would not like to see our colleges lose their accreditation. Thornburg agreed that the question of accreditation was not answered during the morning session.

Rev. Fisher asked Representative Godwin if the Bill's sponsors consulted the University of North Carolina trustees or administrators about the possible effects of the law before it was enacted. Godwin stated that they did not. He stated that if he did this again he would do it differently.

Mr. Myers asked Godwin if the law as worded did not prohibit the exchange of technical ideas. Godwin answered that under the Bill a Communist is prohibited no matter what his text is and he thought that was a problem that concerned many of us. Mr. Myers asked if Representative Godwin would agree to a modification in the law. Godwin stated that there may be some problems and he hoped that they could be worked out.

Godwin stated that he would like to make it clear that this law was not prompted by a lack of harmony between the University of North Carolina and the Legislature or racial demonstrations. He stated that it had been injected wrongly that this Bill came about as a censure of the University, that harmony between the Legislature and the University does not exist. He stated that he had no personal animosity towards the University.

Chairman Britt thanked Representative Godwin for coming to the meeting and answering questions from the members. Chairman Britt then introducted Dr. Howard Boozer, Acting Director of the State Board of Higher Education. He stated that Dr. Boozer was appearing at a 100% invitation by the Commission. He had been asked to furnish the Commission with information concerning the effect disaccreditation would have on federal grants and other foundation grants.

Dr. Boozer presented each member of the Commission with a summary collected from a letter which was sent to a number of Federal agencies who administer a variety of loan, scholarship, contract research and other higher education programs. The letter noted that the tax-supported institutions of higher education in North Carolina have been advised by the Southern Association of Colleges and Schools, that their accreditation by this regional accreditating agency might be in jeopardy due to the 1963 Speaker Ban Law which has been interpreted as a pre-emption by the State Legislature of the traditional policy-making land governing authority of the institutional boards of trustees. These Federal agencies were asked the following question: "If they (the institutions) are actually put on probation or are removed from the accredited list of the Southern Association of Colleges and Schools, what effect would this step have on grants that might come from your agency?" (The replies to this letter are on the summary sheet distributed by Dr. Boozer to each member of the commission, copy filed with minutes.)

Dr. Boozer told the Commission that most Federal agencies and private foundations do not use accreditation as an automatic guide in doling out grants, but they do consider the general quality of the schools involved. The Speaker Ban Law could lead to loss of accreditation or accreditation probation with the Southern Association of Colleges and Schools. This could lead to the resignation of top-flight teachers and other personnel. The resignations could lead to schools of inferior quality and this would probably lead to a drying up of grants. For a variety of reasons, accreditation is a necessity. Experience elsewhere indicates that many highly qualified people do not stay at and are not attracted by, institutions that have lost their accreditation. He stated that a conservative estimate would be that Tar Heel colleges and universities will get more than $93 million in Federal and private money in the next two years. In answer to the letters sent out Dr. Boozer said almost all said that loss of accreditation "per se" would not affect grants, but several indicated loss of accreditation could have some bearing on donations. The National Aeronautics and Space Administration, the National Science Foundation and the Peace Corps said they base grants on the merit of projects and a school's ability to carry them out rather than on accreditation.

The U.S. Office of Education expected to put over $43 million into State schools in the next two year. It requires that recipient schools be accredited or that the school's credits be accepted on transfer by at least three fully-accredited institutions.

The education office administers student loan funds and loaned $2.8 million to 6,219 Tar Heel students last year.

The U. S. Department of Agriculture's Federal Extension Service, which pays for agricultural extension work through N. C. State University, said it would withdraw its grants only if the Speaker Ban Law is in conflict with the Federal Smith-Lever Act authorizing the grants. Dr. Boozer stated that the two laws apparently do not conflict.

The National Institute of Health and the Vocational Rehabilitation Administration said they make training grants for professional workers only at accredited schools but finance other programs - research and demonstrations, for instance at non-accredited schools also.

The Bureau of Cultural Affairs wrote Dr. Boozer that foreigners are given grants to study or teach at accredited institutions only.

The Office of the Assistant Secretary of Defense said the branches of the military have varying rules about paying tuition for service men. The Navy and Marine Corps make tuition grants only at regionally-accredited schools, while the Army and the Air Force require that a school be accredited or that its credits be transferable.

At the conclusion of Dr. Boozer's statements, Chairman Britt called for a recess of ten minutes.

When the meeting was convened, Chairman Britt read letters he had received from the Ford Foundation and Carnegie Corporation. Mr. Frank Bowles, Ford's program director, said the Legislature should consider whether or not the Speaker Ban Law would be viewed by an outside agency as a legislative expression of confidence in

August 11, 1965
4:30 P.M.

SPEAKER BAN LAW COMMISSION

Meeting No. 2

The second meeting of the Commission to Study the Speaker Ban Law was held immediately following the afternoon hearings in the auditorium of the State Legislature Building, August 11, 1965 at 4:30 p.m.

Chairman Britt announced that he had received letters from several people and organizations stating that they would like to appear before the Commission. Some of these included the Veterans of Foreign Wars, the League of Women Voters, Teen-Dems and the college people. He asked for the feelings of the members of the Commission in inviting the college presidents and Board of Trustees from the State-supported colleges to appear on the first day of the hearings and to schedule the other organizations to appear on the next day.

It was the feeling of the members that in the case of the University, the President should be invited along with the four Chancellors and members of the Executive Committee of the Board of Trustees. The Presidents and Chairmen of the Boards of the other State-supported institutions should be heard.

It was decided that the next session would be held on Wednesday, September 8th and on Thursday, September 9th.

The college personnel would be heard the entire day on Wednesday, September 8th and the other organizations would be scheduled on Thursday, September 9th.

It was pointed out that anyone that wished to appear should write to Chairman David Britt in Fairmont, giving a brief synopsis of the type of testimony they intend to present. He would then correspond with them and let them know when they could appear.

Mrs. Swindell inquired if a deadline had been set for the Commission. Chairman Britt stated there had not been a deadline set and that the Commission would take as long as necessary to come to a decision.

There being no further business at this time, the meeting was adjourned until 10:00 Thursday morning.

August 12, 1965
10:00 a.m.

SPEAKER BAN LAW STUDY COMMISSION

Public Hearing No. 3

The third Public Hearing in connection with the Speaker Ban Law Study Commission was held on Thursday morning, August 12, 1965, at 10:00 a.m., in the auditorium of the State Legislature Building. All nine members of the Commission were present.

Chairman David Britt called the meeting to order. He gave a brief summary of the Public Hearings held on Wednesday and explained the purpose of the Study Commission. He stated that he hoped the public would realize that it is necessary for the members of the Commission to question the individuals appearing before them as is being done.

Chairman Britt introduced officials of the American Association of University Professors, Washington, D. C., who are to be heard this morning. Professor John P. Dawson, First Vice President of the Association of University Professors is a member of the faculty of Harvard Law School. Dr. William T. Fidler of Washington, D. C. is General Secretary of the American Association of University Professors. Also appearing on the program are Professor William Van Alstyne of the Duke Law School and Professor Frances C. Brown, Second Vice President of the Association of University Professors and a member of the faculty at Duke University.

Professor Dawson spoke for the Association (copy of his statement was given to all members of the Commission and copy filed with minutes). Professor Dawson stated that the American Association of University Professors is an organization of nearly 75,000 faculty members found throughout the fifty states. In North Carolina there are 27 chapters with a total membership in excess of 1800. He stated that the national office had been greatly concerned over the Speaker Ban Law. The Association felt that it was their duty to speak in this way on behalf of the academic profession, because so far as they had been able to determine no other State has legislation that interferes so drastically with the autonomy and academic freedom of educational institutions. In other states where such legislation has been proposed recently it has been rejected or so greatly modified as in effect to confirm the principles that we advocate.

Professor Dawson stated that their main objection to the Speaker Ban Law was that it invaded an area which has been the central concern of the Association in the half century of its existence; the Speaker Ban violates academic freedom. Once we admit that speakers can be banned, no matter how peaceable, lawful and politically neutral may be the themes that they discuss, we have taken a long step towards the thought control of which we hope to rid the world. He stated the Speaker Ban Law of 1963 seems to aim primarily at that of protecting the minds of students from dangerous thoughts. The statute refers to three classes of persons: "known" Communists, persons "known" to advocate the overthrow of government, and those who have at some time pleaded the Fifth Amendment. Ideas cannot be barred from our country by building great walls, and if they could, why try? We can learn even from our enemies. In fact, the greater the enmity, the greater the need to know about those who profess it. Especially is this so of centers of higher education which are committed to free inquiry because that is the essence of their whole enterprise. Professor Dawson, speaking for the American Association of University Professors, urged the legislative leaders of this great State to repeal the statute outright.

Chairman Britt called on members of the Commission for questions. Senator Hanes asked Professor Dawson what would be the Association's reaction if the Speaker Ban were a regulation imposed by University or College Trustees. Dawson replied that he felt sure a large majority of the membership of the Association would oppose such action by the trustees. He told the Commission that Harvard Law School had a Communist teaching Russian law there for two months which was most profitable. Communist Gus Hall has also spoken at Harvard. Senator Hanes inquired whether there were any ill effects resulting from the visits. Professor Dawson replied that it was enormously refreshing. It is incredible to me that there could be harm. Senator Hanes stated he had heard from some people who had heard Communists speak and they had stated that it was very dull. Professor Dawson stated that most of it is stale repetition, so why not free them to go on "stalely" repeating.

Mrs. Swindell questioned Professor Dawson about the situation at Ohio State University which is similar to the situation in North Carolina. Mrs. Swindell read the Ohio law. Professor Dawson stated that this law delegates to the President and the Board of Trustees of the University, the responsibility of deciding the suitability of the speaker. This legislation was proposed in Ohio after two years' debate. Members of the faculty in the English and Science Departments have left the University primarily because of the Speaker Ban. He stated that he hoped that nothing in North Carolina will ever be as in Ohio. Mrs. Swindell then asked if the responsibility were given to the Board of Trustees to regulate visiting speakers if Professor Dawson felt this would satisfy the faculty members? Professor Dawson stated he felt the law was very bad either way.

Senator Kirby asked if Harvard was accredited. Professor Dawson stated there was no doubt about this. Senator Kirby then asked if Harvard had any restrictions on who spoke on the campus. Dawson answered that he felt that the text should be questioned but he felt the students should be allowed to hear communists as they can be trusted to learn the great stakes in our world-wide contests. They can see through the false arguments of our opponents as well as their elders do. They have a right to hear everything that can be said on these issues, to measure those who hold ideas we consider obnoxious, to see and hear these men if they want to.

Representative Zollicoffer stated he would like to know something about the Association of University Professors, who runs it, who is allowed to belong, the membership dues, etc. Professor Dawson called attention to his statements made earlier on the first page of the statement. He called on Dr. Fidler for additional information concerning the organization. Dr. Fidler stated that membership was voluntary. Dues for a professor making $10,000 per year was $10.00, under this amount dues were $8.00. There is an annual meeting of the organization at which time decisions are made.

Representative Zollicoffer asked if it made any difference what degree was held or if the requirement was only that you teach? Dr. Fidler answered that it was only necessary that a member be in the teaching profession. Representative Zollicoffer asked if all members were contacted before he sent the telegram to the General Assembly in 1963 or if he only decided it was a violation of the rules of his Association and sent the telegram. Dr. Fidler stated there was no doubt in his mind that this was a violation. He sent this telegram after a conference with his staff. Representative Zollicoffer asked if Dr. Fidler had a copy of the bill that quick. Dr. Fidler answered that it had been read to him by telephone. Representative Zollicoffer then asked if it were by a member of his organization. Dr. Fidler answered "yes". Representative Zollicoffer then asked if he knew who it was.

Professor Frances Brown answered that she was the one who called. She did this immediately upon hearing that the bill was to come before the House on that date. Representative Zollicoffer asked if the 1941 North Carolina statute prohibiting use of public buildings by those who advocate violent overthrow of the government was not an infringement of academic freedom. Professor Dawson stated "no", it is clear that while the line is not sharply defined, there is a difference between discussion of ideas and advocacy of action. The government must have the power to control those who advocate its overthrow. Zollicoffer then asked if the Communist Party does not advocate the overthrow of our government. Dawson replied, "Not every day, all day".

Chairman Britt asked if criminals and prostitutes might also be allowed to speak. Professor Dawson commented that it might be interesting but if the substance of the visit is purely the promotion of an illegal act, it would not serve a lawful educational purpose. He stated that if it were know in advance that a speaker was coming to the campus to stir up a riot the next day the administration could refuse him. Chairman Britt then asked if it were not one of the requirements of the Communist Party that a member advocate its cause by soliciting membership. Dawson said he thought there are a great many Communists who would consider it improper to do so. Many communists do not have the promotion of a revolution before their minds every day, especially those trained in an academic discipline. They would talk peaceably about what they know. Representative Britt stated that we have all heard the saying "Crime does not pay", did Professor Dawson agree to this. Dawson stated that he felt that at some time "Crime does pay". Britt then asked if he felt it would be proper for one of our colleges or universities to invite a professional bank robber to come to talk to the students about his profession. Dawson stated he thought it would be quite interesting to students and faculty members to hear about his profession. Britt asked if an invitation to speak on a college campus did not carry dignity and encouragement for the speaker and his views. Dawson replied that this is a fundamental misconception. The campus is strictly neutral and an invitation to speak carries no respectability.

Colonel Joyner stated that he was amazed by the bitterness of the attacks on the General Assembly following the passage of the Speaker Ban Law. He stated that one of our jobs is to ascertain the origin of that opposition and that bitterness. He then requested two groups of documents in the files of the AAUP. He asked Dr. Fidler if the Commission could examine the AAUP's file on the Speaker Ban. Dr. Fidler stated that he did not believe that any information in it would do injury to anybody but he would examine the file and see whether there was anything likely to produce embarrassment to anyone. Colonel Joyner then asked for copies of all AAUP bulletins, newsletters, etc., bearing on the Speaker Ban Law. Dr. Fidler stated he felt this could be done. Colonel Joyner stated that he wanted to know whether the explosion in North Carolina was spontaneous in North Carolina or was stirred up in Washington.

Representative Thornburg asked Dr. Fidler if the Association would black list institutions disaccredited because of the Speaker Ban Law. Dr. Fidler stated that the Association would not black list institutions disaccredited because of the Speaker Ban Law, but if an injured party complained to the Association, it could begin an inquiry. Administrations of institutions have been censured after inquiries in which it was found that a professor was dismissed without cause or similar incidents which violated a right. Dr. Fidler stated that the Association believed professors would leave the disaccredited institutions although a sudden exodus could not be expected because professors are not migratory people.

At this point, Chairman Britt announced a recess of eight minutes.

When the meeting was convened, Chairman Britt introduced Professor William Van Alstyne of the Duke University Law School who gave a lengthy report concerning the constitutionality of the Speaker Ban Law. (copies of this report were given to each member of the Commission, copy filed with the minutes). Professor Van Alstyne stated that in his judgement the law is unconstitutional on its face. He said the 1963 memo of the Deputy Attorney General had been fully considered. Virtually all of the cases cited by the Deputy Attorney General in his memorandum are irrevelent to the constitutionality of the Speaker Ban Law, stated Professor Van Alstyne. Practically all of the cases cited by Deputy Attorney General Ralph Moody are concerned with certain kinds of speeches or actions. The Speaker Ban Law though, is concerned with speakers not speeches, stated Professor Van Alstyne. He contended that the unconstitutionality of the Speaker Ban is amply supported by extremely current Supreme Court decisions. He said Deputy Attorney General Moody's report at no point evidences any awareness of the voluminous case law and professional literature on the constitutional vices of vagueness and overbreadth in statutes to constitutionally protected, preferred interests. Van Alstyne cited one significant case which Moody failed to note and which is wholly inconsistent with his conclusion, another case on which Moody mistakenly relied and one case in which Moody referred to a lower court ruling which later was overturned. Van Alstyne said the Speaker Ban is a violation of at least two provisions of the U.S. Constitution, the First and Fifth Amendments. He further stated that the statute is void on its face because it is impermissibly vague and overly broad in violation of due process of law. Professor Van Alstyne told the Commission that the Speaker Ban Law would not stand a court test of its constitutionality. In a recitation of precedent cases he stated that is is impermissibly broad . The most distinguishing weakness of the statute is that it is a ban on speeches by certain classes of persons without regard to the character of the speech which they are invited to present.

Immediately following the report by Professor Van Alstyne, Colonel Joyner praised Professor Van Alstyne for the fine brief he had prepared and stated that a report such as this required a great deal of study and time. He asked that a copy of Professor Van Alstyne's report be sent to Deputy Attorney General Ralph Moody and that Mr. Moody be allowed to file a reply brief with the Commission and that Mr. Moody send a copy to Professor Van Alstyne. Chairman Britt replied that he would do this.

Chairman Britt introduced Professor Frances Brown of Duke University for a report. Professor Brown stated that the process of education is a training in the investigation and the assessment of reliability of facts, of their relationship to each other, and of the reasonable conclusions that can be drawn from them. To achieve this end, all pertinent information should be available. No area of knowledge, of facts, or ideas should be barred. To forbid certain sources of information; as by denying the right of certain people to speak on the campuses of State-supported institutions is to follow the methods of totalitarian countries, as demonstrated in the Nazi and Communist countries. Freedom to make known to others, either by publication in books or orally in lectures, the results of one's investigation is essential, since in either case it is submitted for criticism, i.e., "free discussion and normal verification". Academic freedom also means that a professor shall be free to criticize established institutional policy and to express his convictions as a citizen without fear of reprisal. If members of the faculty are hampered in their main objective and avenues of investigation are closed to them, as has happened in totalitarian countries or states, we can expect that in a free country the same exodus which has occurred in similar situations at other institutions will take place. Conditions which bring about this exodus likewise make replacement by highly qualified faculty more difficult. Thus the violation of academic freedom imposed by the Speaker Ban Law leads to a decrease

in the prestige of the public institutions of higher education in North Carolina and to failure to achieve the high purpose for which the institutions were founded. Inevitably, the failure to keep able faculty or to attract outstanding faculty members will result in a lower quality of education for the boys and girls who will become students at the state-supported institutions. (copy of Professor Brown's speech is filed with the minutes.)

At the conclusion of Professor Brown's speech, Chairman Britt called on members of the Commission for questioning. Mrs. Swindell asked if there were any cases in which colleges or universities had been censured and accreditation taken away. Dr. Fidler named several institutions that have been on the censured list and one of these was Catawba College in Salisbury, N. C. Chairman Britt wanted to know why Catawba was censured. Dr. Fidler explained that this was a few years ago when there was a disagreement between the President of the college and a teacher. Since that time the censure has been removed. Mrs. Swindell then asked if it were true that the censure is directed at individual injury to teachers rather than the school as a whole. Dr. Fidler answered that this was correct. Representative Zollicoffer asked if the Association had a code of ethics by which the teachers or professors should abide by, and if they had ever censured a teacher for not living up to the code of ethics. Dr. Fidler replied that several times it had been necessary to deal directly with a number of teachers and professors and they had written rather lengthy letters to them.

Chairman Britt asked the officials of the American Association of University Professors if they would care to come back and appear before the Commission. Professor Dawson thanked the Commission for letting them appear and felt that they had presented their side of the case as completely as possible.

Chairman Britt adjourned the meeting and announced that the afternoon session would begin at 2:00 p.m. in the auditorium.

August 12, 1965
2:00 p.m.

SPEAKER BAN LAW STUDY COMMISSION

Public Hearing No. 4

The fourth Public Hearing in connection with the Speaker Ban Law Study Commission was held on Thursday afternoon, August 12, 1965 at 2:00 p.m. in the auditorium of the State Legislature Building. All nine members of the Commission were present.

Chairman David Britt called the meeting to order. He announced that the next session of the Commission would be held on September 8th and 9th, 1965. The presidents, chancellors and administrators of the University and other State-supported schools will be invited to the September 8th hearing. Britt stated that the Commission wanted to know if the State-supported schools have been hurt by the Speaker Ban Law or if they expect to be hurt by this law. Chairman Britt invited other interested groups to send him a written request if they wished to appear on September 9th and he would communicate with them.

Colonel Joyner asked if he could make a brief statement at this time as he understood that the American Legion planned to go into the possible effect the disaccreditation would have on the universities. He stated that he had requested Dr. Boozer to send him a copy of the letter which was sent out by the Board of Higher Education office to various federal agencies inquiring as to what effect the lost of accreditation of our State-supported schools would have on grants that might come from these agencies. Colonel Joyner read the copy of the letter furnished by Dr. Boozer and noted that Dr. Boozer told the Commission he had written the agencies that colleges and universities in North Carolina had been advised accreditation might be in jeopardy because of the Ban Law. Joyner quoted the actual letter as saying the Ban Law apparently pre-empted the traditional authority of board of trustees. Joyner felt that each of the agencies should have received a copy of the Speaker Ban Law so that they could decide for themselves what the law did. Chairman Britt stated that he would write to each of the agencies and enclose a copy of the law, and ask if their reply would be the same. He stated that he hoped to have these replies by our next meeting.

Chairman Britt stated that at the afternoon session representatives of the American Legion would be heard. He introduced State Commander Alvis Carver of Dunn. The first speaker of the afternoon was Dudley Robbins of Pender County, past State Commander of the Legion. Mr. Robbins stated that the law is good. It was and still is necessary. The Legion sees no reason why we should fight Communists in Southeast Asia and coddle them at home. He stated that under the law some of the boys who are dying in Viet Nam would have to pay taxes to give the Communists a speaking forum. He stated that the Speaker Ban Law is one of the most popular pieces of legislation ever enacted by the legislature. He said he has traveled throughout the State in the last several months making speeches and the only people who have taken issue with the Legion's support of the law have been officials of the Greater University. If the statute were put to a popular vote, any attempt to repeal it would be overwhelmingly defeated, Robbins said. He stated he felt that Communism should be taught but the Legion feels that the teaching of 100% Americanism is absolutely necessary. He stated that the Legion in cooperation with the National Education Association has drawn up a guide booklet for teaching Communism in the public schools.

After Mr. Robbins completed his statements, Chairman Britt introduced Senator Robert Morgan. Senator Morgan stated that the Communist partychose North Carolina as early as the 1930's as a major launching pad for its program in this country. He stated that a Young Communist League was formed in Chapel Hill, printing presses for Red propaganda were set up there and various Communists have spoken on University property during the past few years. He stated there was a clear and present need for a Speaker Ban Law, and there is a need today. Morgan stated that the impetus for the Speaker Ban Law was partly provided by the formation of a Chapel Hill Progressive Labor Club in July, 1962. He said the club brought in speakers of questionable political leanings that summer, prompting the Legion post in Chapel Hill to send a resolution of protest to UNC Chancellor William B. Aycock. The Chancellor issued a statement dismissing the charges and told the Legion the group was not recognized by the University. Senator Morgan stated that the 1963 Legislature, weary of waiting for an indication or an acknowledgement that these problems existed, enacted the Speaker Ban Law. He stated that to his knowledge, the Board of Trustees has made no acknowledgement of the Legion's resolution, nor have they made any inquiry into its contents. He further stated that the Speaker Ban Law does not infringe on academic freedom and said the courts have held that the freedom of speech doctrine does not apply to those who are trying to overthrow the government that offers the freedom. He repeated a poem by Langston Hughes, a known Communist, entitled, "Goodbye Christ". He noted that the Speaker Ban Law bars this type of speaker.

Chairman Britt thanked Senator Morgan for his remarks and asked if he would provide members of the Commission with a copy of his speech. Senator Morgan agreed to do this as soon as possible. Chairman Britt called on members of the Commission for questions.

Senator Hanes referred to a letter which Senator Morgan mentioned Hanes had received from the President of the University of South Carolina. Senator Hanes read this letter which was concerning a communist by the name of Braden who had been invited to speak on the campus of the University of South Carolina. When the President of the University heard of this, he had a conference with the person who had invited Braden. It was decided at this conference that Braden should not be allowed to speak on the campus. The President of the University of South Carolina stated that he felt they did not need a Speaker Ban Law.

Mrs. Swindell asked Senator Morgan if the Legion would be willing now to give the responsibility back to the trustees. Senator Morgan answered that he did not believe the Legion would, in light of the trustees' indifference in the past. He mentioned again that the Legion had never received an acknowledgement from the trustees concerning the Resolution sent to them in 1963. Senator Kirby asked if more information could be given concerning communism activities and names. Senator Morgan stated that this could be furnished.

Representative Zollicoffer asked if we found that we would have a great exodus of teachers because of loss of accreditation, would the Legion relent. Morgan replied that the Legion did not expect a mass exodus of professors if accreditation is lost because of the law. He further stated that the Legion believed that if their services had to be purchased at the price of allowing Communists to speak on our campuses, then their services would not be worth the price we would have to pay.

Chairman Britt asked Senator Morgan if the Legion would mind letting Communists speak on non-political matters at State-supported campuses. Morgan said it was not the primary intent of the law to prevent non-political speaking, but so long as the Communist party advocates overthrow of the American government, the Legion would oppose it. He stated that the Communist has no freedom to speak about the truth. No matter what a Communist might speak about, the mere fact that he did it from a University podium would tend to give him respectability and they seek to gain respectability.

Representative Thornburg asked if there were members of the Legion who oppose the action being taken by the Legion. Senator Morgan stated that there may be a few but that the Legion's stand was adopted at the State Convention and he felt sure that he spoke for the majority. Representative Thornburg asked Senator Morgan if he felt the 1941 law was not sufficient to control speakers on the campuses. Morgan replied that this law refers to what is being said rather than who is speaking. Thornburg then asked if the Legion objected to the speaker or the speech itself. Morgan replied "both". Thornburg asked if any university officials had violated the 1941 Act. Morgan answered that he could not say as he did not know what the content of all the speeches were about but he did know that there have been no Communist speakers on the campuses since the Speaker Ban Law was enacted in 1963. Representative Thornburg asked how many speakers come to the University campus each year. Morgan answered that he did not know. Representative Thornburg wanted to know if these speakers were approved by the officials of the colleges. Morgan stated that he believed so and that he wanted it clearly understood that the Legion's views were not intended as a reflection on the University but that as human beings we err and have differences in judgement. There have been instances in which the judgement of the Legion and the University differed.

Thornburg answered that he knew Senator Morgan had great appreciation for the University. At this point, Mr. Robbins stated that he also had great respect for the University and that he was an alumnus of the University. Representative Thornburg mentioned that Mr. Carver had stated that a large number of faculty members were unwilling to testify in behalf of the Speaker Ban Law because they fear punitive action. He asked Senator Morgan if he had proof of this threat. Senator Morgan said he had information in his files from one faculty member that indicates some punitive action might be taken against him if he were to testify in behalf of the Speaker Ban Law. He added that he was sure President William Friday would in no way have a part in this, but the fact remains that some faculty members are afraid to speak out for this law.

Rev. Fisher asked if Braden took the First Amendment. Morgan answered that he was in prison for his failure to take this Amendment.

Mr. Myers praised the work of the American Legion. He asked if it were true that there are a number of Russians who are not Communists. Morgan answered that there were. Mr. Myers asked if this would not complicate the job of determining who was and was not a Communist. Senator Morgan stated he did not feel that very many Russians who were not Communist would be coming to this Country.

Senator Morgan introduced Former Senator Clarence Stone of Rockingham, who was Senate President when the Speaker Ban Law was passed. Senator Stone assured the Commission there was nothing unusual about the manner in which the bill became law although some of the newspapers have published statements that the bill was sneaked in by the 1963 General Assembly. He stated this is an insult

to the General Assembly and an unmitigated misrepresentation of facts. He said the bill passed the House and Senate under a suspension of rules which is a common practice. It was briefly argued on the Senate floor and nobody objected to the third Senate reading that made the bill law. A motion to bring the bill back up for consideration was defeated he recalled. He stated that the truth is that the bill passed the House and the Senate by an overwhelming majority. He felt that Tar Heel students should learn the difference between freedom and Communism but they should learn from good, loyal, free Americans. He stated that people are entitled to feel secure in sending their children to our colleges and universities. He concluded that the Speaker Ban Law does not keep Communism away from the professors or professors away from Communism, he wished that it did.

Chairman Britt thanked Senator Stone for appearing before the Commission. He asked if the members of the Commission would like to ask a question of Senator Stone. There being no questions, Chairman Britt called for a recess of eight minutes.

Immediately upon convening, Senator Morgan introduced Professor A. C. Jordan of Duke University. Mr. Jordan told the Commission that accreditation by the Southern Association does not extend to the graduate level, a very important point which has not been brought out. He stated that a friend of his had written the presidents of forty out-of-state schools asking them, "If the University of North Carolina is disaccredited because of the Speaker Ban Law and my son graduates there, would you accept him if he is otherwise qualified?" Jordan stated that thirty-four replies were received. Twenty-nine wrote that accreditation would have no bearing on the matter, three gave no yes or no answer and one said accreditation would be necessary. Mr. Jordan read several letters from these schools and told the Commission that he had made copies of these letters for the members of the Commission. (copies of these letters were given members at the conclusion of the meeting.) Mr. Jordan referred to several leaflets and books citing Communism activity in this country. He stated that the Communists work untiringly to change our form of government while, at the same time, they attempt to be accepted as legitimate partners in our society and to achieve respectability. Mr. Jordan stated that he was leaving a copy of the testimony of J. Edgar Hoover entitled "FBI Appropriation 1966" for them to read. (This book was given to all members of the Commission.)

Senator Hanes asked Mr. Jordan if he felt Duke University was incapable of controlling its visiting speakers and should be put under the Speaker Ban Law. Jordan stated that to be honest he would have to say yes.

Senator Morgan introduced Colonel Henry E. Royall, Americanism Chairman of the Chapel Hill Legion Post and author of the 1963 Resolution. Colonel Royall stated that he had shared the humiliation of seeing Communism make inroads into our great university -- "grants, accreditation, academic freedom all pale into insignificance when our national survival is at stake". He had seen many students come to the University who had no Communism feelings but who later became Communists. One of these was Junius Scales. He had seen many Communisit use the University buildings to make speeches and personally heard Milton Rhodes speak on the campus. He stated that the university town has a feeling - "a sort of an atmosphere that favors leftists".

Representative Thornburg asked Colonel Royall if he knew how many thousands of students had graduated from the University. Colonel Royall replied that he did not know but this information could be obtained from the office of the University.

He stated that he did believe many students would say that to pass their work and to get good grades they would have to take a leftist tinge. Representative Thornburg asked Colonel Royall if he meant University of North Carolina students must have Communist leanings to successfully get through school. Colonel Royall replied that he did not say that. Representative Thornburg then asked Colonel Royall if he meant to say that the University of North Carolina campus creates a favorable atmosphere for the production of Communists. Colonel Royall replied that this was his personal opinion.

Senator Morgan stated that he would like to make it crystal clear that the Legion is not trying to say that the faculty members, professors or trustees of the University are Communists, nor has the Legion made such accusations. Senator Morgan thanked the Commission for letting the American Legion come before the Commission and apologized for taking so long. He stated that he would like to leave the Commission with several items for their consideration.

Chairman Britt thanked Senator Morgan and representatives of the American Legion for appearing before the Commission. He announced that the next meeting of the Commission would be held on September 8, 1965. The meeting was adjourned.

[11-5-65]

TO HIS EXCELLENCY, DAN K. MOORE, GOVERNOR OF NORTH CAROLINA

This report is made to you pursuant to Resolution Number 85 of the 1965 Session of the General Assembly entitled "A JOINT RESOLUTION CREATING A COMMISSION TO STUDY THE STATUTES RELATING TO VISITING SPEAKERS AT STATE-SUPPORTED EDUCATIONAL INSTITUTIONS".

The Commission authorized by this resolution consists of nine members appointed as follows: Five members appointed by you, namely, Rep. David M. Britt, Rev. Ben C. Fisher, William T. Joyner, Charles F. Myers and Mrs. Elizabeth G. Swindell; two members appointed by the President of the Senate, namely, Sen. Gordon Hanes and Sen. J. Russell Kirby; and two members appointed by the Speaker of the House, namely, Rep. Lacy H. Thornburg and Rep. A. A. Zollicoffer, Jr. Pursuant to your designation, Rep. David M. Britt served as chairman.

The first meeting of the Commission was held in Raleigh in the Legislative Building on July 14, 1965, with all members present. Mrs. Swindell was elected by the Commission to serve as secretary and Mrs. P. E. Howell of Raleigh was employed to render clerical services to the Commission.

At the initial meeting the members became acquainted with duties provided in the resolution and discussed various ways of approaching the work. It was unanimously decided that public hearings should be scheduled, at which all of the State-supported educational institutions affected by the law, accrediting agencies, and other interested parties and organizations would be provided an opportunity to be heard.

Public Hearings were held on August 11 and 12, 1965, and September 8 and 9, 1965, in the auditorium of the Legislative Building. They were well attended and given extensive coverage by newspapers, radio, and television. The transcript of the testimony and other documents considered by the Commission are filed with this report.

Under the provisions of the resolution the Commission was charged with the duty of making a careful, full and detailed study of G. S. 116-199 and G. S. 116-200 (Chapter 1207 of the 1963 Session Laws) relating to visiting speakers at State-supported educational institutions of higher learning, with respect particularly to the following:

1. The enforcement of the statutes;

2. The relationship, if any, between these statutes and the accreditation of State-supported institutions by accreditation organizations and associations;

3. The effect on the relationship of these institutions with other institutions of higher learning; and

4. The impact of the statutes as to the status, administration, reputation, functioning and future development of State-supported institutions.

Enforcement of the Statutes

At its initial meeting the Commission considered the legality of the statutes and authorized the chairman to appoint a subcommittee to give special study to such legality. Inasmuch as five members of the Commission are lawyers, the Chairman constituted them a subcommittee for this purpose.

The subcommittee gave careful consideration to the constitutionality of the statutes and considered various decisions and legal memoranda on the question. Among these was a memorandum prepared by Deputy Attorney General Ralph Moody in 1963 and also a supplement thereto prepared by Mr. Moody at the request of the Commission. Another memorandum considered was that of Prof. William Van Alstyne of the Duke University School of Law. Mr. Moody expressed the opinion that the laws are constitutional and are a proper exercise of the police power of the State of North Carolina. Prof. Van Alstyne expressed the opinion that the laws are unconstitutional insofar as the Federal Constitution is concerned. Other memoranda and legal articles were filed with and considered by the Commission.

After deliberation and discussion, it was the consensus of the full Commission that the problems posed by these statutes should be approached on a much broader basis than a strictly legal one; therefore, no steps are recommended to determine the validity of the statutes.

As to enforcement, testimony presented at the hearings by officials and administrators of the various educational institutions affected by the law revealed that they have diligently complied with the law and the Commission received no evidence that the law has been violated since its enactment on June 26, 1963.

Accreditation

A large part of the inquiry of the Commission was directed to the matter of accreditation. At the August hearings Dean Emmett B. Fields of Vanderbilt University, Chairman of the Commission on Colleges, Southern Association of Colleges and Schools, Inc., and Mr. Gordon Sweet, Executive Director of the Southern Association of Colleges and Schools, Inc., were heard and questioned in great detail. The agency represented by these two is the primary accrediting agency for all colleges and universities in North Carolina. The Officials of this agency take the position that these statutes "remove(s) from the governing boards of the State institutions of higher learning in North Carolina, their traditional authority to handle such matters with administrative discretion," and "raise(s) an issue of interference with the necessary authority of the boards". Also on the matter of accreditation, the Commission heard from Dr. Frank G. Dickey, Executive Director of the National Commission on Accrediting, and Dr. W. H. Plemmons, a former member of the said Commission on Colleges.

We are confident that the Southern Association has done much to improve the quality of education in the South. However, this Commission is not charged with the responsibility of passing upon the wisdom of the Association's action in this matter. The Commission devoted considerable time to studying the significance of accreditation on our State-supported colleges and university. Suffice it to say accreditation means much, financially and otherwise. For any institution to lose accreditation would be substantially damaging.

Relationship with other Institutions

In various ways the Commission studied the effect of the statutes in question on the relationship of our institutions with other institutions of higher learning. These studies disclosed that there is a closely knit bond between the educators of our Country. Grievances of administrators and faculties in one state receive the concern and support of their counterparts throughout the land. In fact, such grievances in one or more schools receive the concern and support of counterparts in other schools of the same state, as indicated by the "sympathetic reaction" to the subject statutes of the administrators and faculties, and even students, of several church related colleges and universities in North Carolina.

The unrest resulting from the statutes in question has extended far beyond the eleven institutions directly affected. It would appear that, unless the unrest is removed, entertaining communists could become glamorized in our State, thereby defeating one of the primary purposes of the statutes.

Impact of Statutes

In considering the impact of the statutes in question on our State-supported institutions of higher learning, we must consider the tangible and the intangible. The most obvious impact would come from loss of accreditation, if such should occur, inasmuch as many financial aids which our institutions now receive are not provided to unaccredited institutions. The Commission made contact with numerous federal agencies

and private foundations and although some of the aids and programs provided are not dependent upon accreditation, many of them are, and with others accreditation would be a factor. For example, a R.O.T.C. program is contingent upon accreditation.

As to the intangible, considerable prestige accompanies accreditation. We are convinced that many students would not attend any of our eleven institutions if accreditation were lost, due partly to increased difficulty in securing recognition for work done in an unaccredited institution.

Also important is the consideration of faculty members. The demand for qualified faculty members far exceeds the supply and this promises to be the case for many years to come. Loss of accreditation would make it much more difficult for our eleven institutions to recruit and maintain adequate faculties.

Conclusion

We are convinced that the people of North Carolina are strongly opposed to communism and all other forms of totalitarianism. They are concerned about the expansion of atheistic communism throughout the world, and this concern is increased by the mortal conflict that is now raging in Viet Nam and other places.

Information from J. Edgar Hoover, Director of the Federal Bureau of Investigation, and other reliable sources is to the effect that the tempo of communist efforts in the United States is being speeded up and that communists are taking advantage of every opportunity. There appears no doubt that the communists consider college and university campuses a fertile field for

their work and this has been evidenced recently by the organization of radical clubs on campuses across the nation and the infiltration of communists into certain campus demonstrations in other parts of the Country.

We feel that the 1963 General Assembly was sincere in its enactment of the statutes in question and felt that it was "striking a blow" for Democracy. It also appears that the General Assembly was reflecting the feeling of a large segment of the population of North Carolina and since the enactment of these statutes, many people have risen to their support.

On the other hand, it is quite evident that many members of the 1963 General Assembly who voted for the statutes did not foresee the far-reaching effects of the statutes. It is our judgment that the primary objective of the General Assembly was to prevent communist rabble rousers and their kind from using the campuses of North Carolina as a forum for their evil activities.

During the public hearings held by this Commission much was said about communism, the appearance of speakers who were alleged to be members of the Communist Party, and the presence in the student bodies of students who individually, and by group activity, were active ultra-liberals.

A careful review of this testimony indicates that these statements and allegations were directed primarily at the University of North Carolina at Chapel Hill, covering the period from 1937 to 1965. This testimony discloses that in more than a quarter of a century fewer than a dozen speakers from among the thousands who have appeared during these years were specifically mentioned as extremists and not all of these were alleged

to be communists. Among students, not more than five were singled out from among the more than 40,000 who have graduated from the Chapel Hill campus over this span of time.

The testimony shows that the University would not knowingly employ a member of the Communist Party in any capacity, and direct testimony by its officers indicates that no such person is employed. No evidence to the contrary was presented to, disclosed to, or discovered by the Commission. We also note that all members of the faculty and staff have formally affirmed their allegiance to the Constitutions of the United States and the State of North Carolina. We review these allegations here because we gave ample notice to all persons who wished to appear before the Commission, or felt that they had pertinent information, to do so. The evidence before this Commission failed to disclose that the faculty of the University at Chapel Hill is infiltrated by communists. The evidence shows that the University does not foster or encourage any political doctrine that would suppress the liberty or freedom of any individual.

We believe that it is highly desirable that students have the opportunity to question, review and discuss the opinions of speakers representing a wide range of viewpoints. It is vital to our success in supporting our free society against all forms of totalitarianism that institutions remain free to examine these ideologies in a manner consistent with educational objectives.

The evidence before us fails to justify charges of irresponsible radicalism at Chapel Hill. There have been and will always be individuals who express themselves in ways that, to some, are disturbing because they are unorthodox and the

larger the institution becomes, the more it is likely to attract this type of individual.

The University of North Carolina at Chapel Hill is a great institution that has served the State well. Members of the General Assembly and all citizens of our state are justifiably interested in our University. There is no evidence before us of any plot, plan, campaign, or conspiracy by anyone to injure the University or any State-supported college.

Although most of the discussion about the statutes in question has been related to the University at Chapel Hill, the impact of these statutes affects all four campuses of our University as well as the eleven colleges supported by the State. There was no evidence before the Commission that a communist has ever appeared as a visiting speaker or otherwise at these other institutions. Accreditation means much to all branches of the University, but it means at least as much, if not more, to the other eleven institutions. Loss of accreditation would be far reaching in its damage, not only from the standpoint of financial benefits but also from the standpoint of attracting students, the transfer of credits of students, the recruitment of faculty members and the retention of fully dedicated teachers and staff members.

The public hearings conducted by this Commission have provided the people of North Carolina with a wealth of information about our institutions and the effects of the statutes in question. It is the opinion of this Commission that a large majority of the people of our State realize the great need of

education at all levels and that they do not favor legislation which will jeopardize the best educational opportunities for our youth.

It is also our opinion that the trustees of our educational institutions should assume more responsibility for the operation of our institutions and should be constantly on the alert for anything that would be harmful to our institutions and to the educational programs they promote. The Trustees of our Institutions constitute a vital link between the institutions they represent and the people of North Carolina.

Finally, we conclude that education at all levels in North Carolina, and the continued progress and welfare of our State, require that the statutes in question be amended to impose responsibility for the subject matter of the statutes in question on the trustees of our institutions; provided, that the trustees give assurance of their willingness to accept this responsibility and particularly with regard to the subject matter of these statutes.

Academic freedom requires academic responsibility. We specifically state that our recommendations should not be construed to mean that we necessarily agree with all the educators who appeared before this Commission on the question of academic freedom. The fact is that our concern about the current unrest in educational circles in our State leads us to the conclusion that the stakes are so high that responsible people, both educators and others, must strive for some solution that will settle this controversy for the foreseeable future.

The fires of intolerance will surely injure the process of education. To solve our problem, to quench the fires now burning, it is necessary that the people on one side of the controversy be more understanding and tolerant of the honest views of the people on the other side. We must seek mutual respect and a middle ground.

To that end we direct our recommendations.

Recommendations

1. Subject to Recommendation No. 2, we recommend that Chapter 1207 of the 1963 Session Laws be amended so as to vest the trustees of the institutions affected by it not only with the authority but also with the responsibility of adopting and publishing rules and precautionary measures relating to visiting speakers covered by said Act on the campuses of said institutions. We submit as a part of this report a proposed legislative bill to accomplish this purpose.

2. We recommend that each of the Boards of Trustees of said institutions adopt the Speaker Policy hereto attached and made a part of this Report.

3. In order that this important matter might be settled forthwith, we recommend that you, The Governor of North Carolina, request the boards of trustees of the affected institutions to assemble as soon as practicable for purpose of giving consideration to the aforementioned Speaker Policy, and at such time as it has been adopted by the said boards of all of said institutions, that you cause to be called an extraordinary Session of the General

Assembly for purpose of considering amendments to Chapter 1207 of the 1963 Session Laws as hereinbefore set forth.

Respectfully submitted, this November 5th, 1965.

David M. Britt, Chairman

Elizabeth G. Swindell, Secretary

Ben C. Fisher

Gordon Hanes

William T. Joyner

J. Russell Kirby

Charles F. Myers

Lacy H. Thornburg

A. A. Zollicoffer, Jr.

SPEAKER POLICY

The Trustees recognize that this Institution, and every part thereof, is owned by the people of North Carolina; that it is operated by duly selected representatives and personnel for the benefit of the people of our state.

The Trustees of this Institution are unalterably opposed to communism and any other ideology or form of government which has as its goal the destruction of our basic democratic institutions.

We recognize that the total program of a college or university is committed to an orderly process of inquiry and discussion, ethical and moral excellence, objective instruction, and respect for law. An essential part of the education of each student at this Institution is the opportunity to hear diverse viewpoints expressed by speakers properly invited to the campus. It is highly desirable that students have the opportunity to question, review and discuss the opinions of speakers representing a wide range of viewpoints.

It is vital to our success in supporting our free society against all forms of totalitarianism that institutions remain free to examine these ideologies to any extent that will serve the educational purposes of our institutions and not the purposes of the enemies of our free society.

We feel that the appearance as a visiting speaker on our campus of one who has prohibited under Chapter 1207 of the 1963 Session Laws (The Speaker Ban Law) or who advocates any

ideology or form of government which is wholly alien to our basic democratic institutions should be infrequent and then only when it would clearly serve the advantage of education; and on such rare occasions reasonable and proper care should be exercised by the institution. The campuses shall not be exploited as convenient outlets of discord and strife.

We therefore provide that we the Trustees together with the administration of this Institution shall be held responsible and accountable for visiting speakers on our campuses. And to that end the administration will adopt rules and precautionary measures consistent with the policy herein set forth regarding the invitations to and appearance of visiting speakers. These rules and precautionary measures shall be subject to the approval of the Trustees.

Form of the Bill

A BILL TO BE ENTITLED AN ACT TO AMEND THE LAW RELATING TO VISITING SPEAKERS AT STATE-SUPPORTED INSTITUTIONS AND TO VEST THE ADMINISTRATION AND REGULATORY POWER OF SAID LAW IN THE BOARD OF TRUSTEES OF THE VARIOUS STATE-SUPPORTED INSTITUTIONS.

The General Assembly of North Carolina do enact:

Section 1. G. S. 116-199, as the same appears in the 1963 Cumulative Supplement of the General Statutes, is hereby amended by striking out the first four lines of said section and by inserting in lieu thereof the following:

"S 116-199. Use of facilities for speaking purposes.--The board of trustees or other governing authority of each college or university which receives any State funds in support thereof, shall adopt and publish regulations governing the use of facilities of such college or university for speaking purposes by any person who:"

Sec. 2. G. S. 116-200, as the same appears in the 1963 Cumulative Supplement of the General Statutes, is hereby amended by striking from line one thereof the words, "This article" and inserting in lieu thereof the words "Any such regulations".

Sec. 3. All laws and clauses of laws in conflict with the provisions of this Act are hereby repealed, but neither the provisions of this Act nor the provisions of Article 22 of Chapter 116 as the same appear in the 1963 Cumulative Supplement of the General Statutes, shall repeal or be construed to repeal any provision of Article 4 of Chapter 14 of the General Statutes.

Sec. 4. This Act shall be in full force and effect from and after its ratification.

STATE OF NORTH CAROLINA

GOVERNOR'S OFFICE

RALEIGH

DAN K. MOORE
GOVERNOR

STATEMENT BY GOVERNOR DAN MOORE

November 5, 1965

We have today heard the report of the Speaker Ban Law Study Commission, delivered by the Chairman, the Honorable David M. Britt. This report is pursuant to Resolution No. 85 of the 1965 Session of the General Assembly entitled "A Joint Resolution Creating a Commission to Study the Statutes Relating to Visiting Speakers at State-Supported Educational Institutions." The Commission kindly furnished me with an advance copy this week so that I could study the report and its recommendations prior to release to the members of the General Assembly and the people of North Carolina.

I approve the report and its recommendations without any reservations. The Commission, in my opinion, has carried out its mission to find a common ground for all those who are devoted to freedom and who desire to do what is best for North Carolina and her institutions of higher learning. I commend Chairman Britt and the members of this Commission for the thorough, objective and judicial approach which they have taken in making their recommendations for a reasonable solution to this highly controversial problem.

In view of the contents of this report, and its three recommendations, I am today taking the following actions:

1. I request that the Board of Trustees of the University of North Carolina and every other state-supported institution of higher education meet on or before Friday, November 12, 1965, so that each board may consider and adopt the speaker policy recommended in this report by the Speaker Ban Law Study Commission. A copy of the Commission report and recommendations will be mailed today to each member of the Board of Trustees of all our state-supported institutions of higher education and to members of the Board of Higher Education. As Chairman of the Board of Trustees of the University of North Carolina, I am calling a special meeting of the University trustees to meet in the Hall of the House of Representatives, State Capitol, Raleigh, at 11:00 a.m., Friday, November 12, 1965.

2. I am issuing a proclamation, by and with the advice and assent of the Council of State, calling an extraordinary session of the General Assembly of North Carolina to convene at twelve noon, Monday, November 15, 1965, for the purpose of considering amendments to Chapter 1207 of the 1963 Session Laws as set forth in the Study Commission report. I have informed the Lieutenant Governor and the Speaker of the House of Representatives of my intentions prior to issuing the call. Copies of the Commission report and my statement will be mailed today to members of the General Assembly.

In my statement of June 1, 1965, in which I requested the General Assembly to authorize the appointment of the Speaker Ban Law Study Commission, I stated that "I have always believed that reasonable men can reach a reasonable solution for any problem . . . Let us join together in doing what is best for the State of North Carolina." I have every confidence that the Boards of Trustees of our University and our State colleges, and the members of the General Assembly of North Carolina, will respond to this call for constructive, responsible action in behalf of higher education and the people of North Carolina.

EXECUTIVE DEPARTMENT

Raleigh, North Carolina

PROCLAMATION BY THE GOVERNOR

November 5, 1965

WHEREAS, the General Assembly of North Carolina, by Resolution Number 85, "A Joint Resolution Creating a Commission to Study the Statutes Relating to Visiting Speakers at State Supported Educational Institutions", directed the appointment of a commission, and directed the commission to "make a careful, full and detailed study of G. S. 116-199 and G. S. 116-200, relating to visiting speakers at State supported educational institutions of higher learning, with respect particularly to the enforcement of the statutes; the relationship, if any, between these statutes and the accreditation of State supported institutions by accreditation organizations and associations; the effect on the relationship of these institutions with other institutions of higher learning; and the impact of the statutes as to the status, administration, reputation, functioning and future development of State supported institutions", and

WHEREAS, the Commission was further directed, upon completion of its study, to make a report of its findings and recommendations to the Governor, and

WHEREAS, the Commission has completed its study and has made a report of its findings and recommendations to the Governor on November 5, 1965, and

WHEREAS, the Commission has recommended that I, as Governor of North Carolina, call an extraordinary Session of the General Assembly of North Carolina for the purpose of considering Amendments to Chapter 1207 of the 1963 Session Laws as set forth in the report of the Commission,

NOW, THEREFORE, I, Dan K. Moore, Governor of the State of North Carolina, under and by virtue of the authority vested in me by Article 3, Section 9 of the Constitution of North Carolina, do, by and with the advice and assent of the Council of State, proclaim that the General Assembly of North Carolina shall meet in Extra Session at Raleigh at Noon, Monday, November 15, 1965, for the purpose of considering and acting upon the Report of the Commission to Study the Statutes Relating to Visiting Speakers at State Supported Educational Institutions. I do hereby call upon, notify and direct all members of the said General Assembly to meet in the City of Raleigh at Noon, November 15, 1965, in such General Assembly as provided by the Constitution.

Done at our Capitol at Raleigh, this the fifth day of November in the year of our Lord, 1965.

(SEAL)

Dan K. Moore

Governor